

MEMORANDUM

Date: 1 November 2018

To: Tax Working Group

From: Chartered Accountants Australia and New Zealand

Subject: Submission on Tax Working Group Interim Report – Tax Administration and the Integrity of the Tax System

Thank you for the opportunity to provide you with feedback on your interim report.

Following our workshop on 11 October 2018 we summarise our key recommendations below.

Tax Administration

Transparency of IR – information and data

- Devise a framework for publishing data and information.

Accountability of IR – Taxpayer Advocate Service and tax disputes

- We fully support the establishment of a Taxpayer Advocate Service (TAS) as an independent “voice for the taxpayer” within the tax system. With appropriate safeguards this could operate as an autonomous unit within IR.
- It is reasonable that the initial focus of the TAS be to provide taxpayers, especially SME and individual taxpayers, with help and resources to deal with tax issues.

- The role of the TAS should promote the fairness of the tax system in terms of operation and also perception by taxpayers.
- The immediate focus of the TAS should be to:
 - address taxpayer complaints and challenges faced through their interaction with the tax system;
 - act as a ‘circuit breaker’ during a tax investigation to avoid entrenchment;
 - ensure taxpayer issues are escalated within IR and dealt with appropriately; and
 - be an independent moderator/facilitator with early involvement in the formal disputes process (waiting until the conference stage is too late as an intervention in terms of taxpayer time and cost already expended);
 - a narrower rather than broader focus at the outset is appropriate until the service is fully operational and understood by taxpayer’s.
- Further work and thinking is required to fully scope the role and powers of the TAS and how it would be structured – including more consultation with key stakeholders (CA ANZ, NZLS, CTG, IR (PAS and Customer and Compliance), Treasury).
- Irrespective of whether or not a TAS is established it is imperative that taxpayer issues are able to be escalated within IR to avoid entrenchment of positions and taxpayer burn off.

Transparency of IR/Integrity of the Tax System – development of tax policy

- Action is required to address identified shortcomings in the execution of the GTPP.
- Suggested areas of review include:
 - engagement needs to be early and meaningful – preferably at “problem definition” stage;
 - timeframes;
 - volume of work;
 - consideration of complexity of issues;
 - management and ownership of each project;
 - quality of draft legislation at Bill stage (drafting process should not be rushed and careful checking required before including in a Bill).

- A process should be established within Parliamentary convention to allow the detail of the draft legislation to be discussed/debated.
- Consistent with the “right from the start” approach, IR Policy should be responsible for the outcomes that result from the administration of the legislation (i.e. their responsibility does not stop at determining the policy).

Accountability of IR/Integrity of the Tax System – legislative frameworks

- Need to appropriately resource and prioritise continual work on remedials, e.g. establish a remedials committee (model on former Rewrite Advisory Panel).
- Post-implementation reviews should be prioritised/carried out as a matter of course under GTPP.

Integrity of the Tax System

Hidden economy

- The strategy adopted must be coherent and consistent, including the contemporaneous roll out of targeted and wider public awareness campaigns.
- There is a behavioural aspect to addressing the hidden economy, e.g. there is strong anecdotal evidence that IR has a low profile outside of the main metropolitan centres, leading to the perception that compliance is low in the regions; this influences taxpayer behaviour.
- Increasing/expanding the withholding tax rules does not address the issues at the consumer-to-business level – need another plan for this aspect.
- More work is needed on whether it is appropriate to introduce a rule that would remove tax deductibility if a payer has not complied with withholding or reporting rules; and if such a rule were to be introduced, what the rule would look like (e.g. appropriate criteria and exceptions).

Directors’ liability

- More work is required regarding the Director Penalty Notice regime to clearly define the problem and the approach to be adopted.

- Concern regarding the practical risks of introducing the Director Penalty Notice regime, e.g. unnecessarily put off professional advisors taking up directorships, loss of valuable skills in business, unintended consequences.

Debt collection

- Further consideration is required regarding:
 - secrecy implications;
 - consistency of tax and non-tax debt collection rules/processes in IR and other Government departments;
 - relief and repayment rules (i.e. instalment arrangements);
 - role of tax pooling;
 - interest and penalties rules;
 - who would have powers to write-off?
- Need to ensure outsourcing IR debt collection does not create negativities and anxieties – critical that the information acted on is correct.

Overdrawn shareholder current accounts

- IR already has extensive dividend rules which could be better utilised.
- If additional powers of enforcement/recovery are given to the Commissioner there is a need to ensure that there is balance between these powers and the principles of fairness and equity.

We would like to continue our involvement with the Tax Working Group and to provide further input as required. Please contact John Cuthbertson in this regard.

Yours sincerely



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Chair – Tax Advisory Group



John Cuthbertson
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